

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LETITIA STUMPPF,)	
)	
Plaintiff,)	
)	CASE NO.: 1:20-cv-3294
v.)	
)	
WAL-MART STORES EAST, LP,)	
)	
Defendant.)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332, 1441, and 1446, removing party WAL-MART STORES EAST, LP (“Wal-Mart”), by counsel, hereby files this Notice of Removal to remove the above-entitled action to this Court based upon the following supporting grounds. Removing party Wal-Mart, appearing solely for the purpose of this removal, and for no other purpose, and preserving all other defenses available to it, states as follows:

VENUE

1. Removal to the Southern District of Indiana, Indianapolis Division, is appropriate pursuant to 28 U.S.C. § 1441(a), because the Southern District of Indiana, Indianapolis Division, embraces the County of Randolph, where the action was pending prior to the filing of this Notice of Removal.

REMOVAL IS TIMELY

2. On December 7, 2020 removing party Wal-Mart was served by certified mail with a Summons and Complaint in the above-entitled action at the offices of its registered agent for service of process in Indiana, CT Corporation System. Therefore, removal is timely under 28 U.S.C. § 1446(b)(1).

STATE COURT PROCEEDINGS

3. On November 28, 2020 Plaintiff Letitia Stumpff (hereinafter “Plaintiff”) filed her Complaint, Appearance, and Summons in the above-entitled action against Wal-Mart in the Randolph Superior Court in the State of Indiana, Cause No. 68D01-2012-CT-000802, and is now pending therein.

4. On or about December 21, 2020, Plaintiff filed her Certificate of Issuance of Summons.

5. On or about June 25, 2020, Plaintiff filed her Return of Service.

6. On or about December 16, 2020 Wal-Mart filed an Attorney Appearance, Jury Demand, and Motion for Enlargement of Time to File Response Pleading in the Randolph County Superior Court in the above-entitled action.

7. On or about December 17, 2020, the Randolph County Superior Court issued an Order Granting Wal-Mart’s Motion for Enlargement of Time to File Responsive Pleading.

8. No further proceedings have been had in the Randolph County Superior Court Pursuant to S.D. Ind. L.R. 81-2(d), Walmart asserts that there are no state court motions that remain pending at the time of this Notice of Removal.

DIVERSITY JURISDICTION EXISTS

9. This is a civil action that falls within the Court's original jurisdiction under 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

10. Plaintiff is a citizen of the State of Indiana.

11. Walmart Stores East, LP is a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. The sole member of both WSE Management, LLC and WSE Investment, LLC is Walmart Stores East, LLC, an Arkansas limited liability company whose sole member is Walmart, Inc. Walmart, Inc., a Delaware corporation, is a publicly traded company on the New York Stock Exchange and traded under the symbol WMT. The principal place of business for all entities mentioned is Bentonville, Arkansas. Thus, for purposes of diversity jurisdiction, Walmart Stores East, LP is a citizen of Delaware and Arkansas, and not of Indiana.

12. There is complete diversity of citizenship between the parties named in this case.

13. Plaintiff's Complaint does not demand a specific sum of monetary damages. The State of Indiana does not permit a demand for a specific sum. Therefore, this Notice of Removal states that the monetary value of the amount in controversy exceeds \$75,000, exclusive of interest and costs, based upon the following:

- a. Plaintiff sustained injuries as an alleged result of the incident forming the basis of her Complaint, injuries to her left ankle, bilateral knees, and low back.
- b. Plaintiff's counsel has conveyed his belief that the case's value will exceed the amount of controversy of \$75,000, exclusive of interest and costs, if the parties

are to continue litigation, and refused to execute a stipulation and covenant not to execute based upon said damages.

14. Based upon the injuries and damages alleged, Plaintiff seeks recovery in excess of \$75,000 exclusive of interest and costs, the value to Plaintiff of the relief sought in the Complaint exceeds \$75,000 exclusive of interest and costs, and/or the amount in controversy exceeds \$75,000 exclusive of interest and costs.

15. Therefore, this state court action is properly removed to this Court in accordance with 28 U.S.C. §§ 1441 and 1446 because: (1) this action is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Indiana, Indianapolis Division; (2) this action is between citizens of different States; (3) the amount in controversy exceeds \$75,000 exclusive of interest and costs.

STATUTORY REQUIREMENTS

16. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81-2, a copy of the entire state court file is attached as an Exhibit and includes the State Court Record as of the date of this Notice of Removal, including the following: Plaintiff's Appearance, Complaint, Summons, Certificate of Issuance of Summons and Service Returned. Defendant's Appearance, Motion for Enlargement of Time and Jury Demand.

17. Pursuant to S.D. Ind. L.R. 81-2(c), a copy of the operative Complaint is also attached hereto as a separate Exhibit to this Notice of Removal.

18. A copy of this Notice of Removal has been filed in the Randolph County Superior Court and Plaintiff has been served with both this Notice of Removal and the Notice of Filing Notice of Removal.

WHEREFORE, removing party WAL-MART STORES EAST, LP, by counsel, respectfully requests that the above-entitled action be removed from the Randolph County Superior Court to the United States District Court for the Southern District of Indiana, Indianapolis Division

LEWIS WAGNER, LLP

By: s/Lesley A. Pfleging
LESLEY A. PFLEGING, #26857-49A
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2020, a copy of the foregoing **Notice of Removal** was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

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